

The father of the petitioner, who was an employee of the respondent Corporation, died in harness on 23.12.2003. On account of his death, ex-gratia payment amounting to ₹ 3,00,000/- was offered by the respondent Corporation and accepted by the mother of the petitioner in the year 2008. After seven years of such acceptance of ex-gratia amount, the present writ petition has been filed seeking compassionate appointment instead of ex-gratia payment accepted earlier by the mother of the petitioner.

It is the settled position of law that the compassionate appointment cannot be claimed as a matter of right and is rather in the form of a concession. In this regard, following observations made by the Apex Court in **Steel Authority of India vs. Madhusudan Das** reported as **(2008) 15 SCC 560** may be usefully referred to :-

“15. This Court in a large number of decisions has held that the appointment on compassionate ground cannot be claimed as a matter of right. It must be provided for in the rules. The criteria laid down therefor viz. That the death of the sole bread earner of the family, must be established. It is meant to provide for a minimum relief. When such contentions are raised, the

constitutional philosophy of equality behind making such a scheme be taken into consideration. Articles 14 and 16 of the Constitution of India mandate that all eligible candidates should be considered for appointment in the posts which have fallen vacant. Appointment on compassionate ground offered to a dependent of a deceased employee is an exception to the said rule. It is a concession, not a right.”

Further, the father of the petitioner admittedly died on 23.12.2003. After about 14½ years of his death, no order of compassionate appointment can be made as the same would be against the very object for which the compassionate appointments are given. Compassionate appointments are given to a member of the family, which has lost its sole bread winner and on such loss, comes under unbearable financial constraints. That being so, no direction can be issued to the respondent Corporation to appoint the petitioner on compassionate basis after about 14½ years of the death of the father of the petitioner, especially when the mother of the petitioner has, seven years ago, accepted and utilized the ex-gratia amount of ₹ 3,00,000/- in lieu of compassionate appointment.

In this regard, the following observations of the Apex Court in

Umesh Kumar Nagpal vs. State of Haryana reported as **1994 (4) SCC**

138 can aptly be referred to, which are thus :-

“6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole (1989) 4 SCC 468 : 1989 SCC (L&S) 662 : (1989) 11 ATC 878 : (1989) 4 SLR 327 bread winner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.”

In view of the above, finding no merit in the writ petition, the same is ordered to be dismissed.

(DEEPAK SIBAL)
JUDGE

May 28, 2015
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